

DEVELOPMENT REVIEW COMMITTEE

Tuesday, April 26, 2011

AGENDA

The Monroe County Development Review Committee will conduct a meeting on Tuesday, April 26, 2011, beginning at 10:00 AM at the Marathon Government Center, Media & Conference Room (1st floor, rear hallway), 2798 Overseas Highway, Marathon, Florida.

CALL TO ORDER

ROLL CALL

DRC MEMBERS:

Townsley Schwab, Senior Director of Planning and Environmental Resources
Mike Roberts, Sr. Administrator, Environmental Resources
Joe Haberman, Planning & Development Review Manager
DOT Representative
Steve Zavalney, Captain, Fire Prevention
Public Works Department Representative

STAFF MEMBERS

Susan Grimsley, Assistant County Attorney
Mitch Harvey, Comprehensive Plan Manager
Gail Creech, Planning Commission Coordinator

CHANGES TO THE AGENDA

MINUTES FOR APPROVAL

March 29, 2011

MEETING

NEW ITEMS:

1. An Ordinance by the Monroe County Board of County Commissioners amending Monroe County Code Section 138-22(1), Redevelopment on-site; codifying procedures utilized to determine lawful establishment and thereby exemption from the Rate of Growth Ordinance (ROGO); providing for severability; providing for repeal of conflicting provisions; providing for transmittal to the Department of Community Affairs and the Secretary of State; providing for codification; providing for an effective date.

[2010-061 DRC Reso No. 07-10.PDF](#)

[2010-061 SR ROGO 08.10.10.PDF](#)

2. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING EXISTING MONROE COUNTY CODE SEC. 138-19, RATE OF GROWTH ORDINANCE (ROGO), SEC. 138-25, APPLICATION PROCEDURES FOR RESIDENTIAL ROGO, SEC. 138-28, EVALUATION CRITERIA, SEC. 138-47, NONRESIDENTIAL RATE OF GROWTH ORDINANCE, SEC. 138-52, APPLICATION PROCEDURES FOR NROGO, SEC. 138-55, EVALUATION CRITERIA (NROGO); ESTABLISHING NEW MONROE COUNTY CODE SEC. 138-29, ROGO SITE PLAN APPROVAL PROCESS AND SEC. 138-56, NROGO SITE PLAN APPROVAL PROCESS; RENUMBERING EXISTING MONROE COUNTY CODE SEC. 138-56, EMPLOYEE HOUSING FAIR SHARE IMPACT FEE TO SEC. 138-57, ELIMINATING SEC. 110-142, COMPLIANCE REQUIREMENTS FOR BUILDING PERMIT APPLICATIONS REQUIRING A ROGO OR NROGO ALLOCATION AWARD OR SUBMITTED UNDER PRIVATIZED PLAN REVIEW, AND SEC. 110-143, DEADLINES FOR SUBMISSION OF BUILDING PERMIT APPLICATIONS TO BE ENTERED INTO THE RESIDENTIAL AND NONRESIDENTIAL PERMIT ALLOCATION SYSTEMS; TO ELIMINATE THE REQUIREMENT THAT A BUILDING PERMIT BE "APPROVED" PRIOR TO ENTERING ROGO OR NROGO AND REPLACE THAT REQUIREMENT WITH A REQUIREMENT THAT APPLICANTS SEEKING ROGO OR NROGO ALLOCATIONS OBTAIN A SITE PLAN APPROVAL PRIOR TO ENTERING ROGO OR NROGO; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE DEPARTMENT OF COMMUNITY AFFAIRS AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN

EFFECTIVE DATE.

[2011-033 SR DRC 04.26.11.PDF](#)

ADJOURNMENT

ADA ASSISTANCE: If you are a person with a disability who needs special accommodations in order to participate in this proceeding, please contact the County Administrator's Office, by phoning (305) 292-4441, between the hours of 8:30 a.m. - 5:00 p.m., no later than five (5) calendar days prior to the scheduled meeting; if you are hearing or voice impaired, call "711".



**MONROE COUNTY, FLORIDA
DEVELOPMENT REVIEW COMMITTEE
RESOLUTION NO. DRC 07-10**

A RESOLUTION BY THE DEVELOPMENT REVIEW COMMITTEE RECOMMENDING APPROVAL OF THE REQUEST BY THE PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT FOR ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTION 138-22(1), REDEVELOPMENT ON-SITE; CODIFYING PROCEDURES UTILIZED TO DETERMINE LAWFUL ESTABLISHMENT AND THEREBY EXEMPTION FROM THE RATE OF GROWTH ORDINANCE (ROGO); PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE DEPARTMENT OF COMMUNITY AFFAIRS AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, during a regularly scheduled meeting held on August 10, 2010, the Development Review Committee (DRC) of Monroe County conducted a review and consideration of a request filed by the Planning & Environmental Resources Department for a text amendment to §138-22(1) of the Monroe County Code; and

WHEREAS, based upon the information and documentation submitted, the Development Review Committee found:

1. The proposed text amendment is consistent with the provisions and intent of the Monroe County Year 2010 Comprehensive Plan; and
2. The proposed text amendment is consistent with the provisions and intent of the Monroe County Code:
 - a. The proposed text amendment meets all of the standards for text amendments as set forth in §102-158(d)(5)(b) of the Monroe County Code, specifically 4. New Issues; and

3. The proposed text amendment is consistent with the Principles for Guiding Development in the Florida Keys Area of Critical State Concern; and

NOW THEREFORE, BE IT RESOLVED BY THE DEVELOPMENT REVIEW COMMITTEE OF MONROE COUNTY, FLORIDA that the information provided in the August 9, 2010 staff report and discussed at the August 10, 2010 meeting supports its decision to recommend approval to the Board of County Commissioners the following text amendment:

(Deletions are ~~stricken through~~ and additions are underlined.)

Sec. 138-22. Type of development not affected.

The residential ROGO shall not apply to the development described below:

- (1) *Redevelopment on-site.* Redevelopment, rehabilitation or replacement of any lawfully established residential dwelling unit or space that does not increase the number of residential dwelling units above that which existed on the site prior to the redevelopment, rehabilitation or replacement shall be exempt from the residential ROGO system.

The Planning Director shall review available documents to determine if a body of evidence exists to support the existence of units on or about July 13, 1992, the effective date of the original ordinance. Such evidence shall be documented through an appropriate application procedure which shall require, at a minimum, at least two of the following records:

- a. Building permit(s) issued prior to July 13, 1992 supporting the existence of the structure(s) and its use(s);
- b. Documentation from the Monroe County Property Appraiser's Office from the time on or about July 13, 1992;
- c. Aerial photographs showing that the structure(s) existed on or about July 13, 1992;
- d. County Directory entries on or about July 13, 1992;
- e. Rental, occupancy or lease records on, or prior to, July 13, 1992, indicating the number, type, and term of the rental or occupancy;
- f. State and/or County licenses on and about July 13, 1992, indicating the number and types of rental units;
- g. Documentation from utility providers indicating the type of service (commercial or residential) provided and the number of meters in existence on or about July 13, 1992; and
- h. Similar supporting documentation not listed above as determined suitable by the Planning Director.

Provision of affidavits to support the existence of a unit is allowed, but cannot be the sole record upon which a decision is based. Provision of documents is the responsibility of the applicant.

Units which are determined not to be affected by ROGO per this subsection, but which have not been previously acknowledged by the Planning Director, may also be nonconformities, pursuant to Chapter 102, Article III Nonconformities. Such occasions shall also require a determination, by the Director, as to the lawfulness of the nonconformity.

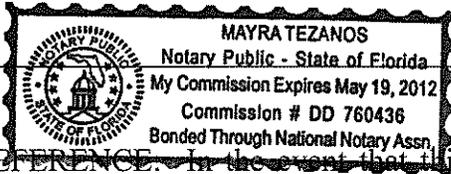
Date 10/7/10

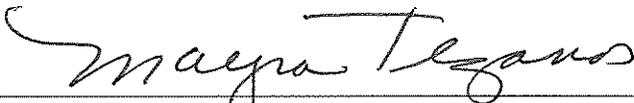


Townsley Schwab,
Senior Director of Planning & Environmental Resources

I HEREBY CERTIFY that on this day before me, an officer duly authorized in the State aforesaid and in the County aforesaid, to take acknowledgments, personally appeared Townsley Schwab, to me known to be the person described in and who executed the foregoing instrument and she acknowledged before me the she executed the same.

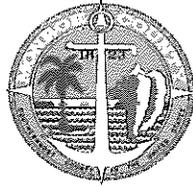
WITNESS my hand and official seal in the County and State last aforesaid this 7th day of October, 2010.





NOTARY PUBLIC, STATE OF FLORIDA

REFERENCE. ~~In the event that this~~ development order constitutes an amendment, extension, variation, or alteration of a previous conditional use permit, that document may be referenced by the following _____



MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

We strive to be caring, professional and fair

To: Monroe County Development Review Committee
Townasley Schwab, Senior Director of Planning & Environmental Resources

From: Thomas A. Lloyd, Planner *TAL*

Date: August 9, 2010

Subject: *Proposed Ordinance to the Board of County Commissioners to amend Section 138-22(1) of the Monroe County Code, Redevelopment on-site*

Meeting: August 10, 2010 (continued from July 27, 2010)

1
2 I REQUEST
3

4 The Planning & Environmental Resources Department is proposing an amendment to the text
5 of §138-22(1) of the Monroe County Code, which concerns the process utilized to determine
6 lawful establishment and, thereby, exemption from the County's Residential Rate of Growth
7 Ordinance (ROGO).
8

9 II RELEVANT PRIOR COUNTY ACTIONS AND BACKGROUND INFORMATION:
10

11 Since October 22, 2003, the criteria used to determine exemption from the ROGO have been
12 outlined in Administrative Interpretation No. 03-108. According to the memo, this
13 Administrative Interpretation was prepared with the Planning Commission to provide criteria
14 for determining "lawfully established" and consistency in determination of and awarding of
15 ROGO and NROGO exemptions and approval of TRE and the transfer of non-residential
16 floor area.
17

18 The Interpretation is as follows:
19

20 ...A landowner will receive an exemption from the ROGO or NROGO allocation if his
21 property meets the following test:
22

- 23 • Lawfully established – A permit or other official approval from the Division of
24 Growth Management for the units and/or floor area; and
- 25
- 26 • Counted in ROGO and 2010 Comprehensive Plan – Proof that the residential
27 unit(s) or amount of floor area was in existence and included in the April 1990
28 census. The census was used to determine the number of existing residential units
29 that is the basis for ROGO and NROGO.
30

1 If a permit or other Growth Management approval is not available, the following may be
2 used to establish that the property was lawfully-established:
3

- 4 • Aerial photographs showing existence of the dwelling unit/non-residential
5 structure prior to 1986 – the date the LDRs and Land Use District maps were
6 adopted. The map designation pre-1986 of many properties is different from
7 today’s designation and the uses permitted in the district are different. This
8 answers the question of, “If the unit or floor area could have been permitted?”;
9 and
- 10
- 11 • County property record cared showing the existence of the unit or floor area prior
12 to 1986. After 1986, the permit records are considered complete and a permit is
13 required to demonstrate that the unit was lawfully established, the existence of the
14 unit or floor area prior to 1986 is an indication of what the use of the structure
15 was at that time; and
- 16
- 17 • Utility records for the period 1986-1991 that show the use was being served.
18 ROGO is based on the 1990 census count of dwelling units; to be counted in the
19 census, someone had to be living in the unit. All of the years are not required if
20 1990 is available; and
- 21
- 22 • The use could have been a permitted use under the pre-1986 zoning of the
23 property. This not only refers to the type of use but also the construction. For
24 example: a residential unit could not have been permitted below flood level after
25 January 1, 1975, therefore a structure built in 1980, below flood level could not
26 have been lawfully established as a residential unit,
- 27
- 28 • To help establish non-residential use of a property, Occupational Licenses (1986-
29 1991), if available, should also be submitted. The amount of non-residential floor
30 area that may be allocated is based on the floor area existing in 1990 (239 square
31 feet for each residential unit counted in the census).
32

33 Additional information will be required to help establish the number of units for mobile
34 home and/or recreational vehicles (RVs) in parks:
35

- 36 • The number of units in the mobile home surveys taken in the late 1980s and early
37 1990s may be used as an indication, but it should be recognized that the number
38 on site, at any one point in time, may have varied from the actual number
- 39
- 40 • The number of recreation vehicles included on the Health Department Licenses as
41 provided for in F.S. chapter 513 for the year 1996 are the maximum number of
42 RVs that may be on the site. Both mobile homes and RVs require a residential
43 ROGO and prior to adoption of the 2010 Comprehensive Plan could be
44 interchanged. Policy 101.2.6 prohibits new transient residential units, including
45 RV spaces, until December 2006. In a district that allows mobile homes and RV

spaces (URM), a mobile home may be permitted without a ROGO allocation if a RV space is removed.

- Demolition permits if mobile homes have been removed.
- Occupational licenses if available for the years 1990 through 1996.

Note: Living in an abandoned shed does not make it a residential unit and an old mobile home used for storage does not become floor area. If the use could/would not have been permitted, it may not be used as an exemption from ROGO.

There will be cases where the applicant and staff are unable to provide all the information required to determine if the structure is lawfully established and in use in 1990. Other information and “proof” of use may be provided to the Planning Director for consideration.

III REVIEW

The Planning & Environmental Resources Department has determined that there is a need to codify the criteria used for the determination of exemption from the ROGO ordinance. Recently, the City of Key West successfully amended their code (*see City of Key West §108-991, attached*) to address a similar situation. Upon review, staff has determined that elements and language provided within the “Key West model” could serve as a guideline for similar codification by the County. The “Key West model” effectively outlines the requirements for exemption while simultaneously and succinctly addressing criteria outlined in Administrative Interpretation No. 03-108.

As such, staff recommends the following changes (deletions are ~~stricken through~~ and additions are underlined):

Sec. 138-22. Type of development not affected.

The residential ROGO shall not apply to the development described below:

- (1) *Redevelopment on-site.* Redevelopment, rehabilitation or replacement of any lawfully established residential dwelling unit or space that does not increase the number of residential dwelling units above that which existed on the site prior to the redevelopment, rehabilitation or replacement shall be exempt from the residential ROGO system.

The Planning Director shall review available documents to determine if a body of evidence exists to support the existence of units on or about July 13, 1992, the effective date of the original ordinance. Such evidence shall be documented through an appropriate application procedure which shall require, at a minimum, at least two of the following records:

- 1 a. Building permit(s) issued prior to July 13, 1992 supporting the existence of the
2 structure(s) and its use(s);
3 b. Documentation from the Monroe County Property Appraiser's Office from the
4 time on or about July 13, 1992;
5 c. Aerial photographs showing that the structure(s) existed on or about July 13,
6 1992;
7 d. County Directory entries on or about July 13, 1992;
8 e. Rental, occupancy or lease records on, or prior to, July 13, 1992, indicating the
9 number, type, and term of the rental or occupancy;
10 f. State and/or County licenses on and about July 13, 1992, indicating the number
11 and types of rental units;
12 g. Documentation from utility providers indicating the type of service (commercial
13 or residential) provided and the number of meters in existence on or about July
14 13, 1992; and
15 h. Similar supporting documentation not listed above as determined suitable by the
16 Planning Director.

17
18 Provision of affidavits to support the existence of a unit is allowed, but cannot be the
19 sole record upon which a decision is based. Provision of documents is the
20 responsibility of the applicant.

21
22 Units which are determined not to be affected by ROGO per this subsection, but
23 which have not been previously acknowledged by the Planning Director, may also be
24 nonconformities, pursuant to Chapter 102, Article III Nonconformities. Such
25 occasions shall also require a determination, by the Director, as to the lawfulness of
26 the nonconformity.

27
28 **IV RECOMMENDATION**

29
30 Staff recommends that the Board of County Commissioners amend the Monroe
31 County Code as stated in the text of this staff report.

Attachment:

City of Key West

Sec. 108-991. - Development not affected by article.

Development consistent with the following shall not be affected by the terms of this article, but such development shall comply with all applicable sections of the city's land development regulations:

- (1) Any use, development, project, structure, building, fence, sign or activity which does not result in a net addition to the number of equivalent single-family dwelling unit stock.
- (2) Redevelopment or rehabilitation which replaces but which does not increase the number of permanent or transient residential dwelling units above that existing on the site prior to redevelopment or rehabilitation.
- (3) Units in existence at the time the April 1, 1990 census was prepared are presumed not to be affected by BPAS. The administrative official shall review available documents to determine if a body of evidence exists to support the existence of units on or about April 1, 1990. Units existing in 1990 will be documented through a mandatory site visit by city staff and at least two of the following records:
 - a. Aerial photographs and original dated photographs showing that the structure existed on or about April 1, 1990;
 - b. Building permits issued prior to April 1, 1990;
 - c. Copies of city directory entries on or about April 1, 1990;
 - d. Site visits which indicate that the age of the structure and associated improvements likely pre-date 1990;
 - e. Rental, occupancy or lease records from before and including April 1, 1990, indicating the number, type and term of the rental or occupancy;
 - f. Copies of state, county, and city licenses on and about April 1, 1990, indicating the number and types of rental units;
 - g. Documentation for Keys Energy Service and Florida Keys Aqueduct Authority indicating the type of service (residential or commercial) provided and the number of meters on or about April 1, 1990;
 - h. Documentation for the Monroe County Property Appraiser's Office for the time on or about April 1, 1990 (Green Card); and
 - i. Similar documentation as listed above.

Provision of affidavits to support the existence of a unit is allowed, but cannot be the sole record upon which a decision is based. Provision of documents is the responsibility of the applicant. The administrative official's decision shall be rendered to the department of community affairs for a determination of consistency with the principals for guiding development.

Units which are determined not to be affected by the building permit allocation system per this subsection but which have not been previously acknowledged by the administrative official are presumed to be lawfully established per chapter 122, article II, nonconformities, if the additional following requirements are met:

- a. The applicant satisfies the building department that the unit meets the Florida Building Code, through as-built certifications or other means acceptable to the building official; and
- b. All back fee payments, including impact fee payments, from 1990 onward, as determined by the building department, are made in full.

Transient units which meet the criteria in this subsection will be licensed by the city.

(Code 1986, § 34.1372(4); Ord. No. 09-07, § 6, 5-5-2009)



MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

We strive to be caring, professional and fair

To: Monroe County Development Review Committee, Townsley Schwab, Senior Director of Planning & Environmental Resources & Christine Hurley, AICP, Director of Growth Management

From: Joseph Haberman, AICP, Planning & Development Review Manager 

Date: April 19, 2011

Subject: *AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING EXISTING MONROE COUNTY CODE SEC. 138-19, RATE OF GROWTH ORDINANCE (ROGO), SEC. 138-25, APPLICATION PROCEDURES FOR RESIDENTIAL ROGO, SEC. 138-28, EVALUATION CRITERIA, SEC. 138-47, NONRESIDENTIAL RATE OF GROWTH ORDINANCE, SEC. 138-52, APPLICATION PROCEDURES FOR NROGO, SEC. 138-55, EVALUATION CRITERIA (NROGO); ESTABLISHING NEW MONROE COUNTY CODE SEC. 138-29, ROGO SITE PLAN APPROVAL PROCESS AND SEC. 138-56, NROGO SITE PLAN APPROVAL PROCESS; RENUMBERING EXISTING MONROE COUNTY CODE SEC. 138-56, EMPLOYEE HOUSING FAIR SHARE IMPACT FEE TO SEC. 138-57, ELIMINATING SEC. 110-142, COMPLIANCE REQUIREMENTS FOR BUILDING PERMIT APPLICATIONS REQUIRING A ROGO OR NROGO ALLOCATION AWARD OR SUBMITTED UNDER PRIVATIZED PLAN REVIEW, AND SEC. 110-143, DEADLINES FOR SUBMISSION OF BUILDING PERMIT APPLICATIONS TO BE ENTERED INTO THE RESIDENTIAL AND NONRESIDENTIAL PERMIT ALLOCATION SYSTEMS; TO ELIMINATE THE REQUIREMENT THAT A BUILDING PERMIT BE "APPROVED" PRIOR TO ENTERING ROGO OR NROGO AND REPLACE THAT REQUIREMENT WITH A REQUIREMENT THAT APPLICANTS SEEKING ROGO OR NROGO ALLOCATIONS OBTAIN A SITE PLAN APPROVAL PRIOR TO ENTERING ROGO OR NROGO; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE DEPARTMENT OF COMMUNITY AFFAIRS AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.*

Meeting: May 10, 2011

1
2 I REQUEST
3

4 The Planning & Environmental Resources Department is proposing amendments to the text
5 of the Monroe County Code concerning the County's Rate of Growth Ordinance (ROGO)
6 and Nonresidential Rate of Growth Ordinance (NROGO). The general purpose of the

1 amendments is to eliminate the regulations that require an applicant to have a building permit
2 application be approved and “ready to issue” prior to entering ROGO or NROGO and replace
3 the existing regulations with new regulations that would not require full building plans to be
4 submitted prior to ROGO/NROGO application. The current requirement to have both the
5 site and building plans approved would be replaced with a requirement that applicants
6 seeking ROGO/NROGO allocations obtain only site plan approval prior to entering the
7 respective ROGO/NROGO permit allocation system.
8

9 **II RELEVANT PRIOR COUNTY ACTIONS AND BACKGROUND INFORMATION:**

10
11 The ROGO was implemented within the Monroe County Code as required by Monroe
12 County Comprehensive Plan Policy 101.2.13.
13

14 The ROGO was first adopted in 1992 by Ordinance #016-1992. Following its adoption, the
15 ROGO was implemented and it has been effective from July 1992 to present. In order to
16 carry out several miscellaneous amendments, MCC Chapter 138, Article II, ROGO has been
17 amended several times from its adoption to present date. Of these amendments, it is important
18 to note that in order to implement the tier scoring system, the ROGO regulations were
19 amended in 2006 by Ordinance #009-2006.
20

21 As set forth in MCC §138-19(b), the purposes and intent of the ROGO are: 1) to facilitate
22 implementation of goals, objectives and policies set forth in the Comprehensive Plan relating
23 to protection of residents, visitors and property in the county from natural disasters,
24 specifically including hurricanes; 2) to limit the annual amount and rate of residential
25 development commensurate with the county's ability to maintain a reasonable and safe
26 hurricane evacuation clearance time; 3) to regulate the rate and location of growth in order to
27 further deter deterioration of public facility service levels, environmental degradation and
28 potential land use conflicts; 4) to allocate the limited number of dwelling units available
29 annually hereunder, based upon the goals, objectives and policies set forth in the
30 Comprehensive Plan; and 5) to implement goal 105 of the Comprehensive Plan.
31

32 The NROGO was carried out as required by Monroe County Comprehensive Plan Policy
33 101.3.1.
34

35 The NROGO was first adopted in 2001 by Ordinance #032-2001. Following its adoption, the
36 NROGO was implemented and it has been effective from July 2001 to present. In order to
37 carry out several miscellaneous amendments, MCC Chapter 138, Article III, NROGO has
38 been amended several times from its adoption to present date. Of these amendments, it is
39 important to note that in order to implement the tier scoring system, the NROGO regulations
40 were amended in 2006 by Ordinance #011-2006.
41

42 As set forth in MCC §138-47(b), the purposes and intent of the NROGO are: 1) to facilitate
43 implementation of goals, objectives and policies set forth in the Comprehensive Plan relating
44 to maintaining a balance between residential and nonresidential growth; 2) to maintain a ratio
45 of approximately 239 square feet of nonresidential floor area for each new residential permit
46 issued through the ROGO; 3) to promote the upgrading and expansion of existing small-size

1 businesses and to retain the predominately small scale character of nonresidential
2 development in the Florida Keys; 4) to regulate the rate and location of nonresidential
3 development in order to eliminate potential land use conflicts; and 5) to allocate the
4 nonresidential floor area annually hereunder, based on the goals, objectives and policies of
5 the Comprehensive Plan and the Livable CommuniKeys master plans.
6

7 III REVIEW

8

9 Since the adoption of ROGO and NROGO, Monroe County has required applicants for
10 allocations to obtain an approved building permit prior to applying for an allocation. The
11 existing process requires an applicant to submit a full plan set for the site and all buildings as
12 part of building permit application, as well as application fees for the building permit and
13 corresponding plan review.
14

15 As with any other building permit not requiring an ROGO/NROGO allocation, approval of
16 the building permit application by the following county staff is required:

- 17 ○ Planning
 - 18 ○ Environmental Resources
 - 19 ○ Plumbing
 - 20 ○ Mechanical
 - 21 ○ Electrical
 - 22 ○ Floodplain Management
 - 23 ○ Fire Marshal
 - 24 ○ Engineering
 - 25 ○ Building Official
- 26

27 Development approved by a building permit is required to be compliant with the most current
28 codes in place at time of issuance. However, under the current system, applicants are
29 required to seek building permit approval prior to application for a ROGO and/or NROGO
30 allocation. Since the reviews by various disciplines occur at the beginning of a process that
31 may take some time (ROGO/NROGO are competitive, point-based systems and applications
32 may remain in the systems for several years), it is possible that the building permit
33 application that was reviewed and approved under the codes at time of application may
34 become non-compliant with the current code requirements on the date of building permit
35 issuance.
36

37 In addition, the expense to an applicant to prepare plans and pay building permit fees is
38 extensive. Further, staff has observed that some applicants submit “typical” plans for
39 buildings they do not intend to build so they can enter ROGO and/or NROGO. These
40 applicants then immediately revise the plans once an allocation is awarded and a building
41 permit is issued. The administrative staff time it takes to review full building permit
42 applications is extensive.
43

44 To alleviate these issues, staff is proposing to create a ROGO and NROGO Site Plan
45 Approval processes to remove the requirement to have a fully approved building permit prior
46 to application for ROGO or NROGO.

1
2 Staff is also proposing this new requirement be effective in January of 2012, so that
3 applicants who have already entered the process (building permit application approved) may
4 complete that process, but applicants that apply after the effective date may apply for a site
5 plan approval instead of a building permit.
6

7 The site plan approval process shall determine whether the site being proposed for an
8 allocation is “buildable” and/or “developable”, without the full requirement for having a
9 building permit application approved prior to entering the ROGO and/or NROGO permit
10 allocation system.
11

12 Therefore, staff recommends the following changes (Deletions are ~~stricken through~~ and
13 additions are underlined. Text to remain the same is in black):
14

15 **Sec. 138-19. - Residential rate of growth ordinance (ROGO).**
16

17 (a) *Definitions.* The following words, terms and phrases, when used in this section, shall
18 have the meanings ascribed to them in this subsection, except where the context clearly
19 indicates a different meaning:
20

21 *Allocation period* means a defined period of time within which applications for the
22 residential ROGO allocation will be accepted and processed.
23

24 *Annual allocation period* means the 12-month period beginning on July 13, 1992, (the
25 effective date of the original dwelling unit allocation ordinance), and subsequent one-year
26 periods.
27

28 *Annual residential ROGO allocation* means the maximum number of dwelling units for
29 which building permits may be issued during an annual allocation period.
30

31 *Buildable lot or parcel* means a lot or parcel which must contain a minimum of 2,000
32 square feet of upland, including any disturbed wetlands that can be filled pursuant to this
33 chapter.
34

35 *Controlling date* means the date and time a ROGO application is submitted. This date
36 shall be used to determine the annual anniversary date for receipt of a perseverance point
37 and shall determine precedence when ROGO applications receive identical ranking
38 scores. A new controlling date shall be established based upon the resubmittal date and
39 time of any withdrawn or revised application, except pursuant to section 138-25(h).
40

41 *Lawfully established for ROGO/NROGO exemption* means a unit or floor area that has
42 received a permit or other official approval from the division of growth management for
43 the units and/or floor area.
44

45 *Quarterly allocation period* means the three-month period beginning on July 13, 1992, or
46 such other date as the board may specify, and successive three-month periods.

1
2 *Quarterly residential ROGO allocation* means the maximum number of dwelling units
3 for which building permits may be issued in a quarterly allocation period.
4

5 *Residential dwelling unit* means a dwelling unit as defined in section 101-1, and
6 expressly includes the following other terms also specifically defined in section 101-1:
7 lawfully established hotel rooms, campground spaces, mobile homes, transient residential
8 units, institutional residential units (except hospital rooms) and live-aboards.
9

10 *Residential ROGO allocation* means the maximum number of dwelling units for which
11 building permits may be issued in a given time period.
12

13 *Residential ROGO allocation award* means the approval of a residential ROGO
14 application for the issuance of a building permit.
15

16 *ROGO application* means the residential ROGO application submitted by applicants
17 seeking allocation awards.
18

19 *ROGO Site Plan* means a document that demonstrates that proposed development
20 required to be approved by the planning director prior to entering the ROGO permit
21 allocation system.
22

23 (b) *Purpose and intent.* The purposes and intent of residential ROGO are:

- 24 (1) To facilitate implementation of goals, objectives and policies set forth in the
25 comprehensive plan relating to protection of residents, visitors and property in the
26 county from natural disasters, specifically including hurricanes;
27 (2) To limit the annual amount and rate of residential development commensurate with
28 the county's ability to maintain a reasonable and safe hurricane evacuation clearance
29 time;
30 (3) To regulate the rate and location of growth in order to further deter deterioration of
31 public facility service levels, environmental degradation and potential land use
32 conflicts;
33 (4) To allocate the limited number of dwelling units available annually hereunder, based
34 upon the goals, objectives and policies set forth in the comprehensive plan; and
35 (5) To implement goal 105 of the comprehensive plan.
36

37 * * * * *

38
39 **Sec. 138-25. - Application procedures for residential ROGO.**
40

41 (a) *Application for allocation.* In each quarterly allocation period, the department of planning
42 and environmental resources shall accept applications to enter the residential ROGO
43 system on forms prescribed by the planning director. Except for allocations to be reserved
44 and awarded under section 138-24(b), the ROGO application form must be accompanied
45 by an approved ~~building permit application~~ ROGO Site Plan and a nonrefundable
46 processing fee in order to be considered in the current allocation period. The planning

1 director shall review the ROGO application for completeness. If the application is
2 determined to be incomplete, the planning director shall reject the ROGO application and
3 notify the applicant of such rejection, and the reasons therefore, within ten working days.
4 The application shall be assigned a controlling date that reflects the time and date of its
5 submittal unless the application is determined to be incomplete. If the application is
6 rejected, then the new controlling date shall be assigned when a complete application is
7 submitted.

8
9 (b) *Fee for review of application.* Each ROGO application shall be accompanied by a
10 nonrefundable processing fee as may be established by resolution of the board.
11 Additional fees are not required for successive review of the same ROGO application
12 unless the application is withdrawn and resubmitted.

13
14 (c) *Compliance with other requirements.* The ROGO application shall not constitute an
15 indication of ~~indicate~~ whether or not the applicant for a residential dwelling unit
16 allocation has satisfied and complied with all county, state and federal requirements
17 otherwise imposed by the county regarding conditions precedent to issuance of a building
18 permit ~~and shall require that the applicant certify to such compliance.~~ Those
19 requirements shall be examined after an allocation is awarded during the building permit
20 process.

21
22 (d) *Noncounty time periods.* The county shall develop necessary administrative procedures
23 and, if necessary, enter into agreements with other jurisdictional entities which impose
24 requirements as a condition precedent to development in the county, to ensure that such
25 noncounty approvals, certifications and/or permits are not lost due to the increased time
26 requirements necessary for the county to process and evaluate residential dwelling unit
27 applications and issue allocation awards. The county may permit evidence of compliance
28 with the requirements of other jurisdictional entities to be demonstrated by "coordinating
29 letters" in lieu of approvals or permits.

30
31 (e) *Limitation on number of applications.*

32 (1) An individual entity or organization may submit only one ROGO application per unit
33 in each quarterly allocation period.

34 (2) There shall be no limit on the number of separate parcels for which ROGO
35 applications may be submitted by an individual, entity or organization.

36 (3) A ROGO application for a given parcel shall not be for more dwelling units than are
37 permitted by applicable zoning or land use regulations or the comprehensive plan.

38
39 (f) *Expiration of allocation award.* Except as provided for in this article, an allocation award
40 shall expire ~~when its corresponding building permit is not picked up after 60 days of~~
41 ~~notification by certified mail of the award or after issuance of the building permit, upon~~
42 ~~expiration of the permit. ;~~ 1) upon failure by an applicant to submit a building permit
43 application to the building department for the residential dwelling unit requiring the
44 ROGO allocation within 180 days from the date of the ROGO allocation award; 2) upon
45 failure by an applicant to obtain an issued building permit within 360 days from the date
46 of the ROGO allocation award; or 3) when its corresponding building permit is deemed

1 to expire pursuant to chapter 102, article VII or after 60 days of mailing of notification
2 for the award of the allocation. Within 90 days of expiration, this timeframe may be
3 extended only by resolution of the board of county commissioners.
4

5 (g) *Borrowing from future housing allocations.*

- 6 (1) The planning commission may award additional units from future annual dwelling
7 unit allocations to fully grant an application for residential units in a project if such an
8 application receives an allocation award for some, but not all, of the units requested.
9 (2) The board of county commissioners, in approving affordable housing allocations
10 pursuant to section 138-24(b), may reserve and award additional units from future
11 annual dwelling unit allocations if the number of available allocations is insufficient
12 to meet specific project needs.
13 (3) The planning commission shall not reduce any future market rate quarterly allocation
14 by more than 20 percent and shall not apply these reductions to more than the next
15 five annual allocations or 20 quarterly allocations.
16 (4) The board of county commissioners, upon recommendation of the planning
17 commission, may make available for award up to 100 percent of the affordable
18 housing allocations available over the next five annual allocations or 20 quarterly
19 allocations.
20

21 (h) *Revisions of ROGO applications and awards.*

- 22 (1) An applicant may elect to revise a ROGO application to increase the competitive
23 points in the application without prejudice or change in the controlling date if a
24 revision is submitted on a form approved by the planning director to the planning and
25 environmental resources department no later than 30 days following the planning
26 commission approval of the previous ROGO rankings. Any such revision shall not
27 involve changes to the approved ~~building permit application~~ ROGO Site Plan. All
28 other applications that are withdrawn and resubmitted that do not increase the
29 competitive points or involve revisions to the approved ~~building permit application~~
30 ROGO Site Plan shall be considered new, requiring payment of appropriate fees and
31 receiving a new controlling date.
32 (2) After receipt of an allocation award, and either before or after receipt of a building
33 permit, but prior to receipt of a certificate of occupancy, no revisions shall be made to
34 any aspect of the proposed residential development which formed the basis for the
35 evaluation review, determination of points and allocation rankings, unless such
36 revision would have the effect of increasing the points awarded.
37

38 (i) *Clarification of application data.*

- 39 (1) At any time during the dwelling unit allocation review and approval process, the
40 applicant may be requested by the ~~director of~~ planning director or the planning
41 commission to submit additional information to clarify the relationship of the
42 allocation application, or any elements thereof, to the evaluation criteria. If such a
43 request is made, the ~~director of~~ planning director shall identify the specific evaluation
44 criterion at issue and the specific information needed and shall communicate such
45 request to the applicant.

(2) Upon receiving a request from the ~~director of~~ planning director for such additional information, the applicant may provide such information, or the applicant may decline to provide such information and allow the allocation application to be evaluated as submitted.

* * * * *

Sec. 138-28. - Evaluation criteria (ROGO).

The point values established on the following pages are to be applied cumulatively:

(1) *Tier designation.* The following points are intended to discourage development in environmentally sensitive areas and to direct and encourage development in appropriate infill areas, while recognizing that any development has an impact on the carrying capacity of the Florida Keys:

<i>Point Assignment</i>	<i>Criteria</i>
+0	An application which proposes a dwelling unit within an area designated tier I on Big Pine Key or No Name Key.
+10	An application which proposes a dwelling unit within an area designated tier I (natural area).
+10	An application which proposes development within an area designated tier II (transition and sprawl reduction area) on Big Pine Key or No Name Key.
+20	An application which proposes development within an area designated tier III (infill area) on Big Pine Key or No Name Key.
+20	An application which proposes the clearing of any upland native habitat vegetation that is part of a one acre or larger upland native habitat within an area designated tier III-A (special protection area).
+30	An application which proposes development within an area designated tier III (infill area) outside of Big Pine Key or No Name Key.

(2) *Big Pine Key and No Name Key only.* The following additional negative points shall be cumulatively assigned to allocation applications and are intended to implement the Habitat Conservation Plan and the Livable CommuniKeys Community Master Plan for Big Pine Key and No Name Key:

<i>Point Assignment</i>	<i>Criteria</i>
- 10	An application which proposes a dwelling unit on No Name Key.
- 10	An application which proposes development in designated Lower Keys Marsh Rabbit habitat or buffer areas as designated in the community master plan.
- 10	An application which proposes development in Key Deer Corridor as designated in the community master plan.

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(3) *Lot aggregation.* The following points are intended to encourage the voluntary reduction of density through aggregation of vacant, legally platted, buildable lots with density allocation by lot:-

<i>Point Assignment*</i>	<i>Criteria*</i>
+4	An application which aggregates a contiguous vacant, legally platted, vacant, buildable lot, zoned IS, IS-D, URM, URM-L, or CFV, located within a tier III designated area together with the parcel proposed for development. Each additional vacant, legally platted, buildable lot which is aggregated that meets the above requirements will earn the application the additional points as specified.
+3	On Big Pine Key and No Name Key. An application which aggregates a contiguous vacant, legally platted, vacant, buildable lot, zoned IS, IS-D, URM, URM-L, or CFV, located within a tier II or tier III designated area together with the parcel proposed for development. Each additional vacant, legally platted, buildable lot which is aggregated that meets the above requirements will earn the application the additional points as specified.
<i>Additional requirements</i>	
	1. The proposed development shall not involve the clearing of upland native vegetation of more than 5,000 square feet of upland native vegetation or the open space requirements of section 118-9, whichever is less.
	2. The application shall include, but not be limited to, the following: <u>(a) An affidavit of ownership of all affected parcels, acreage or land; and (b) A legally binding, restrictive covenant limiting the number of dwelling units on the aggregated lot, running in favor of the county and enforceable by the county, subject to the approval of the growth management director and county attorney and recorded in the office of the clerk of the county prior to the issuance of any building permit pursuant to an allocation award.</u>
	(a) An affidavit of ownership of all affected parcels, acreage or land; and
	(b) A legally binding, restrictive covenant limiting the number of dwelling units on the aggregated lot, running in favor of the county and enforceable by the county, subject to the approval of the growth management director and county attorney and recorded in the office of the clerk of the county prior to the issuance of any building permit pursuant to an allocation award.
<u>*Exception: No points for aggregation shall be awarded for any application that proposes the clearing of any native upland habitat in a tier III-A (Special Protection</u>	

Area) area. No aggregation of lots will be permitted in tier I.

~~No points for aggregation shall be awarded for any application that proposes the clearing of any native upland habitat in a tier III-A (Special Protection Area) area. No aggregation of lots will be permitted in tier I.~~

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- (4) *Land dedication.* The following points are intended to encourage the voluntary dedication of vacant, buildable land within tier I and tier II (Big Pine Key and No Name Key) areas for the purposes of conservation, resource protection, restoration or density reduction, and, if located within tier III, for the purpose of providing land for affordable housing, where appropriate:

<i>Point Assignment</i>	<i>Criteria</i>
+4	An application which includes the dedication to the county of one vacant, legally platted buildable lot, zoned SC, IS, IS-D, URM, URM-L, or CFV, or a legally platted, buildable lot within any CFSD that authorizes dwelling units. Each additional vacant, legally platted, buildable lot which is dedicated that meets the above requirements will earn the application the additional points as specified.
+2	On Big Pine Key and No Name Key, An application which includes the dedication to the county of one vacant, legally platted buildable lot, zoned SC, IS, IS-D, URM, URM-L, or CFV, or a legally platted, buildable lot within any CFSD that authorizes dwelling units. Each additional vacant, legally platted, buildable lot which is dedicated that meets the above requirements will earn the applicantion <u>application</u> the additional points as specified.
+1 for each 5,000 square feet of lot area	An application which includes the dedication to the county of a vacant, legally platted, buildable lot of 5,000 square feet or more within a suburban residential district (SR) or suburban residential-limited district (SR-L) within a designated tier I area. Each additional vacant, legally platted, buildable lot of 5,000 square feet or more that meets the above requirements will earn points as specified.
+0.5	An application which includes the dedication to the county of one vacant, legally platted, buildable lot of 5,000 square feet or more within a native area district (NA) or sparsely settled district (SS) in a designated tier I area. Each additional vacant, legally platted, buildable lot that meets the above requirements will earn the half-point as specified.
+4	An application which includes the dedication to the county of at least one acre of vacant, unplatted, buildable land located within a designated tier I area. Each additional one acre of vacant, unplatted, buildable land that meets the above requirements will earn the points as specified.
+2	On Big Pine Key and No Name Key, an application which includes the dedication to the county of at least one acre of

	vacant, unplatted, buildable land located within a designated tier I area. Each additional one acre of vacant, unplatted, buildable land that meets the above requirements will earn the points as specified.
<i>Additional requirements:</i>	
	1. The application shall include, but not be limited to, the following: <u>(a) An affidavit of ownership of all affected lots, parcels, acreage or land; and (b) A statutory warranty deed that conveys the dedicated property to the county shall be approved by the growth management director and county attorney and recorded in the office of the clerk of the county prior to the issuance of any building permit pursuant to an allocation award.</u>
	(a) An affidavit of ownership of all affected lots, parcels, acreage or land; and
	(b) A statutory warranty deed that conveys the dedicated property to the county shall be approved by the growth management director and county attorney and recorded in the office of the clerk of the county prior to the issuance of any building permit pursuant to an allocation award.
	2. Lots or parcels dedicated for positive points under this paragraph shall not be eligible for meeting the mitigation requirements of the Big Pine Key and No Name Key Overlay Zone.
	3. Lots or parcels donated for points in Big Pine Key or No Name Key must be located within tier I or tier II lands in Big Pine Key or No Name Key

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- (5) *Market rate housing in employee or affordable housing project.* The following points are intended to provide further incentives for provision of market rate housing within employee housing projects:

<i>Point Assignment</i>	<i>Criteria</i>
+6	An application for market rate housing unit which is part of employee or affordable housing project.
<i>Additional requirements:</i>	
	The market rate dwelling unit must be part of an approved employee or affordable housing project and meet all the requirements and conditions pursuant to section 130-161(a) and (f) and this ordinance

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- (6) *Special flood hazard area.* The following points are intended to discourage development within high risk special flood hazard zones:

<i>Point Assignment</i>	<i>Criteria</i>
-4	An application which proposes development within a "V" zone on the FEMA flood insurance rate map.

8

1 (7) *Central wastewater treatment system availability.* The following points shall be
 2 assigned to encourage development in areas served by central wastewater treatment
 3 systems:

<i>Point Assignment</i>	<i>Criteria</i>
+4	An application for which development is required to be connected to a central wastewater treatment system that meets BAT/AWT standards established by the state legislature.

4
 5 (8) *Perseverance points.* The following points are intended to reward an application
 6 based upon the number of years spent in the residential ROGO system without
 7 receiving an allocation award:

<i>Point Assignment</i>	<i>Criteria</i>
+1	A point shall be awarded on the anniversary controlling date for each year that the application remains in the ROGO system up to a maximum of four years.

8
 9 (9) *Payment to land acquisition fund.* Up to two points shall be awarded for a monetary
 10 payment to the county's land acquisition fund for the purchase by the county of lands
 11 for conservation and retirement of development rights. Points for payment to this
 12 fund shall be assigned as follows:

<i>Point Assignment</i>	<i>Criteria</i>
+ 1 to + 2	Proposes payment to the county's land acquisition fund in an amount equal to the monetary value of a ROGO dedication point times the number of points to be purchased, up to a maximum of two points.
<i>Additional requirements:</i>	
	1. The monetary value of each point shall be established annually by resolution of the board of county commissioners.
	2. The monetary value of each point shall be based upon the average fair market value of privately-owned, buildable, vacant, IS/URM, platted lots in tier I divided by four.
	3. Payment to the county's land acquisition fund shall be prior to the issuance of any building permit pursuant to the allocation award.

13
 14 (10) *Rescoring of applications not receiving allocations.* All applications in the ROGO
 15 system on the effective date of the ordinance from which this article is derived that do
 16 not receive an allocation award in quarter 4, ROGO year 14, ending July 13, 2006,
 17 shall be rescored in quarter 1, ROGO year 15, pursuant to the above provisions as
 18 modified by the vesting provisions of subsection ~~subsubsection~~ (11) of this section.

19
 20 (11) *Retroactive vesting provisions.* Notwithstanding the provisions of this article,
 21 upon the effective date of the ordinance from which this article is derived, the
 22 following vesting provisions shall apply to the scoring of applications in the ROGO
 23 system prior to the effective date of the ordinance from which this article is derived:

1. All applications shall be eligible to continue to receive perseverance points beyond the first four years in the system, at an annual rate of +2 points for each year that the application remains in the ROGO system.
2. If any application, prior to the effective date of the ordinance from which this article is derived, had been withdrawn and reentered the ROGO system and the application had been revised solely to increase its point total through lot aggregation or land dedication without revising the approved ~~building permit application~~ ROGO Site Plan, the controlling date of the application shall be restored to the controlling date of the application prior to the application's withdrawal. The application shall also be entitled to any perseverance points lost due to the withdrawal.
3. If any application received points for aggregation, which would not be authorized under the new aggregation provisions of subsection (3) of this section, the applicant shall receive +4 points for each aggregated lot, except that all applications received after September 27, 2005 that are on file with the county must be rescored prior to receiving an allocation pursuant to the mandate by the Florida Administrative Commission by Rule Nos. 28-20.110 and 28-20.120, effective September 27, 2005.
4. All applicants in the ROGO system upon the effective date of the ordinance from which this article is derived shall be notified by regular mail within 30 days from the effective date of the ordinance from which this article is derived by the county planning and environmental resources department of the new ROGO scoring system. In this notification, applicants shall be informed that they have 30 days from the date of the notification, if they so ~~ehese~~ choose, to submit a revision to their ROGO application to receive positive points through aggregation, land dedication, or payment of fees to the land acquisition fund. Within this one-time, 30-day time period, applicants shall be able to revise their applications without payment of fees or a change in their controlling date upon condition that their approved ~~building permit application~~ ROGO Site Plan is not revised.

* * * * *

Sec. 138-29. ROGO site plan approval process.

(a) ROGO Site Plan application. Any application for a ROGO allocation within unincorporated Monroe County subject to this chapter shall require site plan approval prior to ROGO application submittal in accordance with this section.

(b) ROGO Site Plan application requirements. An application shall be submitted to the planning director in a form provided by the planning and environmental resources department.

(1) The application shall be received by the planning department at least 30 days prior to the end of an allocation period.

(2) The application shall be accompanied by the required application fee, which shall be established by resolution of the board of county commissioners.

- 1 (3) The application shall include a) the name(s) and address(s) of the property owner(s)
2 of record, b) the property record card(s) from the Monroe County Property Appraiser,
3 c) a location map, d) a written legal description of the property proposed for
4 development, e) a statement and confirmation that no new structures shall exceed or
5 otherwise violate the height and floodplain management limitations of this chapter, f)
6 a boundary survey of the property proposed for development, prepared by a surveyor
7 registered in the State of Florida, showing the boundaries of the site, elevations,
8 bodies of water or wetlands on the site and adjacent to the site, existing structures
9 including all paved areas, existing easements, total acreage and total acreage by
10 habitat and g) the site plan.
- 11 (4) If a conditional use permit is required in accordance with this chapter for the
12 development applied for, the conditional use permit shall be obtained and effective
13 prior to submittal of any ROGO Site Plan application. A copy of the recorded
14 development order shall be submitted with the ROGO Site Plan application.
- 15 (5) The site plan shall be prepared and sealed by a professional architect, engineer, or any
16 other professional licensed in the State of Florida to prepare site plan. The site plan
17 shall be drawn to a scale of one inch equals twenty feet. At a minimum, the site plan
18 shall depict the following features and information:
- 19 a. Date, north point and graphic scale;
20 b. Boundary lines of site, including all property lines and mean high-water lines in
21 accordance with Florida Statutes;
22 c. All attributes from the boundary survey, excluding only existing structures to be
23 removed as part of a redevelopment;
24 c. Future Land Use Map (FLUM) designation(s) of the site;
25 d. Land use district designation(s) of site;
26 e. Tier designation(s) of the site;
27 f. Flood zones pursuant to the Flood Insurance Rate Map;
28 g. Setback lines as required by this chapter;
29 h. Locations and dimensions of all existing and proposed structures, including all
30 paved areas;
31 i. Size and type of buffer yards and parking lot landscaping areas, including the
32 species and number of plants;
33 j. Extent and area of wetlands, open space preservation areas and conservation
34 easements;
35 k. Delineation of habitat types to demonstrate buildable area on the site, including
36 any heritage trees identified and any potential species that may use the site
37 (certified by an approved biologist and based on the most current professionally-
38 recognized mapping by the U.S. Fish and Wildlife Service;
39 l. Drainage plan including existing and proposed topography, all drainage
40 structures, retention areas, drainage swales and existing and proposed permeable
41 and impermeable areas;
42 m. Location of existing and proposed fire hydrants or fire wells;
43 n. The location of existing public utilities, including location of the closest available
44 water supply system or collection lines and the closest available wastewater
45 collection system or collection lines (with wastewater system provider) or on-site

1 system proposed to meet required County and State of Florida wastewater
2 treatment standards; and

3 n. A table providing the total land area of the site, the total buildable area of the site,
4 the type and square footage of all nonresidential land uses, the type and number of
5 all residential dwelling units, setbacks required and provided, the total amount of
6 off-street parking required and provided, the amounts of impervious and pervious
7 areas, and calculations for land use intensity, open space ratio, and off-street
8 parking.

9 As reasonably required, if deemed necessary to complete a full review of the
10 application, the planning director may request additional information or coordination
11 letters from other agencies.

12
13 (c) ROGO Site Plan application required review:

- 14
15 (1) The planning director, in accordance with the procedures, standards and limitations of
16 this article and subject to such rights of appeal as are provided, has the authority to
17 approve ROGO Site Plan applications.
- 18 (2) The ROGO Site Plan application shall be initially reviewed by planning and
19 environmental resources department for compliance with this chapter, the
20 comprehensive plan, any applicable Livable CommuniKeys master plan and any
21 other plan that would affect the proposed land use and intensity.
- 22 (3) Once determined complete and in compliance by the planning and environmental
23 resources department, the planning director, or his or her designee, shall route the
24 application to the following departments for review: the building department, the
25 office of the fire marshal, the engineering and project management department. Each
26 department that reviews the application shall respond with written comments and
27 recommendations to the planning director, or his or her designee, who shall maintain
28 a file on the application.
- 29 (4) Upon receiving written comments and recommendations of approval by all of the
30 reviewing departments, the planning director shall approve the ROGO Site Plan
31 application. At that time, the planning and environmental resources department shall
32 notify the applicant in writing and the applicant may then submit the additional
33 application for a ROGO allocation and enter the ROGO permit allocation system.
- 34 (5) In the event that the ROGO Site Plan application is found deficient and/or non-
35 compliant to a required regulation or policy, the planning director shall notify the
36 applicant by certified mail of such deficiency or additionally needed information.
37 The applicant shall have an opportunity to remedy any deficiency by filing a revision
38 to the application within 60 days of the date of the notification by the County of the
39 deficiency. If the applicant does not submit a revision to the application with 60
40 days, the planning director shall deny the ROGO Site Plan application.
- 41 (6) The applicant, an adjacent property owner, or any aggrieved or adversely affected
42 person, as defined by F.S. § 163.3215(2), may appeal the decision of the planning
43 director. Such an appeal shall be conducted by the planning commission in
44 accordance with the provisions of section 102-185(e).

45 * * * * *

1
2 **Sec. 138-47. - Nonresidential rate of growth ordinance (NROGO).**
3

4 (a) Definitions. The following words, terms and phrases, when used in this section, shall
5 have the meanings ascribed to them in this subsection, except where the context clearly
6 indicates a different meaning:
7

8 *Allocation date* means the specific date and time by which applications for the NROGO
9 allocation will be accepted and processed.
10

11 *Annual allocation period* means the 12-month period beginning on July 14, 2001, and
12 subsequent one-year periods that is used to determine the amount of nonresidential floor
13 area to be allocated based on the number of ROGO allocations to be issued in the
14 upcoming ROGO year.
15

16 *Annual nonresidential ROGO allocation* means the maximum floor area for which
17 building permits may be issued during an annual allocation period.
18

19 *Buildable lot or parcel* means the lot or parcel which must contain a minimum of 2,000
20 square feet of uplands, including any disturbed wetlands that can be filled pursuant to this
21 chapter.
22

23 *Community master plan* means a plan adopted by the board of county commissioners as
24 part of the Monroe County Livable CommuniKeys Program.
25

26 *Controlling date* means the same as defined in section 138-19(a), except it shall apply to
27 NROGO applications under this article.
28

29 *Covered walkways* means a covered area of any length but no wider than five feet that is
30 used for providing weather protected pedestrian access from one part of a property to
31 another part of the same property.
32

33 *Historic resources* means a building, structure, site, or object listed or eligible for listing
34 individually or as a contributing resource in a district in the National Register of Historic
35 Places, the state inventory of historic resources or the county register of designated
36 historic properties.
37

38 *Infill* means the development or redevelopment of land that has been bypassed, remained
39 vacant, and/or underused in otherwise built up areas which are serviced by existing
40 infrastructure.
41

42 *Nonresidential floor area* means the sum of the gross floor area for a nonresidential
43 building or structure, as defined in section 101-1, any areas used for the provision of food
44 and beverage services and seating, whether covered or uncovered, and all covered,
45 unenclosed areas. Walkways, stairways, entryways, parking, and loading areas are not
46 considered nonresidential floor area. Additionally, boat barns, covered and unenclosed

1 boat racks with three or fewer sides not associated with retail sales of boats which do not
2 exceed 50 percent of the net buildable area of the lot/parcel are not considered
3 nonresidential floor area. The term "nonresidential floor area" does not include space
4 occupied by transient residential and institutional residential principal uses.
5

6 Nonresidential ROGO allocation, also referred to as NROGO allocation, means the
7 maximum amount of nonresidential floor area for which building permits may be issued
8 in a given time period.
9

10 Nonresidential ROGO allocation award, also referred to as NROGO allocation award,
11 means the approval of a nonresidential ROGO application ~~for the~~ prior to the application
12 and subsequent issuance of a building permit to authorize construction of new
13 nonresidential floor area.
14

15 NROGO Site Plan means a document that demonstrates that proposed development
16 required to be approved by the planning director prior to entering the NROGO permit
17 allocation system.
18

19 *Site* means the parcels of land required to be aggregated under section 130-130 to be
20 developed or from which existing nonresidential floor area is to be transferred or
21 received.
22

23 *Storage area* means the outside storage of vehicles, recreational vehicles, boats, campers,
24 equipment, goods and materials for more than 24 hours. The term "storage area" includes
25 a contractor's equipment storage, but does not include outdoor retail sales. This is
26 considered a light industrial use and does not include waste transfer stations, junkyards,
27 yards or other heavy industrial uses.
28

29 *Sunshade* means an unenclosed structure used as protection from the weather.
30

31 (b) *Purpose and intent.* The purposes and intent of the nonresidential rate of growth
32 ordinance are:

- 33 (1) To facilitate implementation of goals, objectives and policies set forth in the
34 comprehensive plan relating to maintaining a balance between residential and
35 nonresidential growth.
- 36 (2) To maintain a ratio of approximately 239 square feet of nonresidential floor area for
37 each new residential permit issued through the residential rate of growth ordinance
38 (ROGO).
- 39 (3) To promote the upgrading and expansion of existing small-size businesses and to
40 retain the predominately small scale character of nonresidential development in the
41 Florida Keys.
- 42 (4) To regulate the rate and location of nonresidential development in order to eliminate
43 potential land use conflicts.
- 44 (5) To allocate the nonresidential floor area annually hereunder, based on the goals,
45 objectives and policies of the comprehensive plan and the Livable CommuniKeys
46 master plans.

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3
4 **Sec. 138-52. - Application procedures for NROGO.**
5

- 6 (a) *Application for allocation.* The planning department shall accept applications to enter the
7 NROGO system on forms provided by the planning director. The NROGO application
8 form must be accompanied by an approved ~~building permit application~~ NROGO Site
9 Plan in order to be considered in the current annual allocation period. The application
10 must state for which allocation category an award is being sought, either 2,500 square
11 feet or less, or ~~more than 2,500~~ 2,501 square feet or more. The planning director shall
12 review the NROGO application for completeness. If the application is determined to be
13 incomplete, the planning director shall reject the NROGO application and notify the
14 applicant of such rejection, and the reasons therefor, within ten working days. If
15 determined to be complete, the application shall be assigned a controlling date.
16
- 17 (b) *Fee for review of application.* Each NROGO application shall be accompanied by a
18 nonrefundable processing fee as may be established by resolution of the board of county
19 commissioners. Additional fees are not required for successive review of the same
20 NROGO application unless the application is withdrawn and resubmitted.
21
- 22 (c) *Compliance with other requirements.* The NROGO ~~applications~~ application shall ~~indicate~~
23 not constitute an indication of whether or not the applicant for the nonresidential floor
24 area allocation has satisfied and complied with all county, state, and federal requirements
25 otherwise imposed by the county regarding conditions precedent to issuance of a building
26 permit ~~and shall require that the applicant certify to such compliance.~~ Those
27 requirements shall be examined after an allocation is awarded during the building permit
28 process.
29
- 30 (d) *Time of review.* ~~Notwithstanding the time periods set forth in section 110-142, the~~
31 ~~director of~~ The planning director may retain the allocation application and its associated
32 ~~building permit~~ NROGO Site Plan application for review pursuant to the evaluation
33 procedures and criteria set forth in section 138-53 and section 138-55.
34
- 35 (e) *Noncounty time periods.* The county shall develop necessary administrative procedures
36 and, if necessary, enter into agreements with other jurisdictional entities which impose
37 requirements as a condition precedent to development in the county, to ensure that such
38 noncounty approvals, certifications and/or permits are not lost due to the increased time
39 requirements necessary for the county to process and evaluate ~~residential dwelling unit~~
40 nonresidential floor area applications and issue allocation awards. The county may permit
41 evidence of compliance with the requirements of other jurisdictional entities to be
42 demonstrated by coordination letters in lieu of approvals or permits.
43
- 44 (f) *Limitation on number of applications.*
45 (1) An individual entity or organization may have only one active NROGO application
46 per site in the annual allocation period.

1 (2) There shall be no limit on the number of separate projects for which NROGO
2 applications may be submitted by an individual, entity or organization.
3

4 (g) *Expiration of allocation award.* An allocation award shall expire ~~when:~~ 1) upon failure
5 by an applicant to submit a building permit application to the building department for the
6 nonresidential development requiring the NROGO allocation within 180 days from the
7 date of the NROGO allocation award; 2) upon failure by an applicant to obtain an issued
8 building permit within 360 days from the date of the NROGO allocation award; or 3)
9 when its corresponding building permit is deemed to expire pursuant to chapter 102,
10 article VII ~~or after 60 days of mailing of notification for the award of the allocation of~~
11 ~~nonresidential floor area.~~ Within 90 days of expiration, this timeframe may be extended
12 only by resolution of the board of county commissioners.
13

14 (h) *Withdrawal of NROGO application.* An applicant may elect to withdraw a NROGO
15 application without prejudice at any time up to finalization of the evaluation rankings by
16 the planning commission. Revision and resubmission of the withdrawn application must
17 be in accordance with subsection (i) of this section.
18

19 (i) *Revisions to applications and awards.*

20 (1) Upon submission of a NROGO application, an applicant may revise the application if
21 it is withdrawn and resubmitted prior to the allocation date for the allocation period in
22 which the applicant wishes to compete. Resubmitted applications shall be considered
23 new, requiring payment of appropriate fees and receiving a new controlling date.

24 (2) After receipt of an allocation award, and either before or after receipt of a building
25 permit being obtained, but prior to receipt of a certificate of occupancy or final
26 inspection, no revisions shall be made to any aspect of the proposed nonresidential
27 development which formed the basis for the evaluation review, determination of
28 points and allocation rankings, unless such revision would have the effect of
29 increasing the points awarded.

30 (3) After the receipt of an allocation award, a building permit and a certificate of
31 occupancy or final inspection, no revision shall be made to any aspect of the
32 completed nonresidential development which formed the basis for the evaluation,
33 review, determination of points and allocation rankings, unless such revisions are
34 accomplished pursuant to a new building permit and unless such revisions would
35 have the net effect of either maintaining or increasing the number of points originally
36 awarded.
37

38 (j) *Clarification of application data.*

39 (1) At any time during the NROGO allocation review and approval process, the applicant
40 may be requested by the ~~director of~~ planning director or the planning commission, to
41 submit additional information to clarify the relationship of the allocation application,
42 or any elements thereof, to the evaluation criteria. If such a request is made, the
43 ~~director of~~ planning director shall identify the specific evaluation criterion at issue
44 and the specific information needed and shall communicate such request to the
45 applicant.

(2) Upon receiving a request from the ~~director of~~ planning director for such additional information, the applicant may provide such information; or the applicant may decline to provide such information and allow the allocation application to be evaluated as submitted.

* * * * *

Sec. 138-55. - Evaluation criteria (NROGO).

(a) Evaluation point values. The following point values established are to be applied cumulatively except where otherwise specified:

(1) *Tier designation.* The following points are intended to discourage nonresidential development in environmentally sensitive areas and areas without sufficient infrastructure and to direct and encourage nonresidential development in appropriate infill areas, while recognizing that any development has affects on the carrying capacity of the Florida Keys:

<i>Point Assignment</i>	<i>Criteria</i>
0	An application which proposes nonresidential development within an area designated tier I (natural area), except for the expansion of existing, lawfully established nonresidential floor area provided under the exception below.
+10	An application which proposes nonresidential development within an area designated tier II (transition and sprawl reduction area) on Big Pine <u>Key</u> and <u>or</u> No Name Key.
+10	An application which proposes nonresidential development within an area designated tier III-A (special protection area) that proposes to clear any portion of an upland native habitat patch of one acre or greater in size.
+20	An application which proposes nonresidential development within an area designated tier III (infill area).
<i>Exception:</i>	
Any application for the expansion of existing, lawfully established nonresidential floor area shall be assigned +20 points contingent upon no further clearing of upland native habitat and no addition to and/or expansion of the existing lot or parcel upon which the existing use is located.	

(2) *Intensity Reduction.* The following points are intended to encourage the voluntary reduction of intensity:

<i>Point Assignment</i>	<i>Criteria</i>
+4	An application proposes development that reduces the permitted floor area ratio (FAR) to 23 percent or less.
<i>Additional Requirements:</i>	
A legally binding restrictive covenant running in favor of the county that restricts the floor area ratio of the property to a maximum of 23 percent for a period of ten years shall be approved by the growth management director and county attorney	

and recorded in the office of the county clerk prior to the issuance of any building permit pursuant to an allocation award.

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- (3) *Land dedication.* The following points are intended to encourage the voluntary dedication of vacant, buildable land within tier I and tier II (Big Pine Key and No Name Key) areas for the purposes of conservation, resource protection, restoration or density reduction, and, if located within tier III, for the purpose of providing land for affordable housing where appropriate:

<i>Point Assignment</i>	<i>Criteria</i>
+4	An application which includes the dedication to the county of one vacant, legally platted, buildable lot, zoned SC, IS, IS-D, IS-M, URM, URM-L, or CFV or a legally platted, buildable lot within any CFSD that authorizes dwelling units. Each additional vacant, legally platted, buildable lot which is dedicated that meets the above requirements will earn the application the additional points as specified.
+2	On Big Pine Key and No Name Key, an application which includes the dedication to the county of one vacant, legally platted, buildable lot, zoned SC, IS, IS-D, IS-M, URM, URM-L, or CFV, or a legally platted, buildable lot within any CFSD that authorizes dwelling units. Each additional vacant, legally platted, buildable lot which is dedicated that meets the above requirements will earn the application the additional points as specified.
+1 for each 5,000 square feet of lot area	An application which includes the dedication to the county of a vacant, legally platted, buildable lot of 5,000 square feet or more within a suburban residential district (SR) or suburban residential-limited district (SR-L) in a designated tier I area. Each additional vacant, legally platted, buildable lot of 5,000 square feet or more that meets the above requirements will earn points as specified.
+0.5	An application which includes the dedication to the county of one vacant, legally platted lot of 5,000 square feet or more within a native area district (NA) or sparsely settled district (SS) within a designated tier I area. Each additional vacant, legally platted, buildable lot that meets the above requirements will earn the half-point as specified.
+4	An application which includes the dedication to the county of at least one acre of vacant, unplatted, buildable land located within a designated tier I area. Each additional one acre of vacant, unplatted, buildable land that meets the above requirements will earn the points as specified.
+2	On Big Pine Key and No Name Key, an application which includes the dedication to the county of at least one acre of vacant, unplatted, buildable land located within a designated tier I area. Each additional one acre of vacant, unplatted,

	buildable land that meets the above requirements will earn the points as specified.
<i>Additional requirements:</i>	
1. The application shall include, but not be limited to, the following: <u>(a) An affidavit of ownership of all affected lots, parcels, acreage or land; and (b) A statutory warranty deed that conveys the dedicated property to the county shall be approved by the growth management director and county attorney and recorded in the office of the clerk of the county prior to the issuance of any building permit pursuant to an allocation award.</u>	
(a) An affidavit of ownership of all affected lots, parcels, acreage or land; and (b) A statutory warranty deed that conveys the dedicated property to the county shall be approved by the growth management director and county attorney and recorded in the office of the clerk of the county prior to the issuance of any building permit pursuant to an allocation award.	
2. Lots or parcels dedicated for positive points under this subsection shall not be eligible for meeting the mitigation requirements of the Big Pine Key and No Name Key Overlay Zone.	
3. Only lots or parcels on Big Pine Key and No Name Key dedicated for positive points under this subsection will allow for positive points for applications on Big Pine Key and No Name Key.	

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- (4) *Special flood hazard area.* The following points are intended to discourage development within high risk special flood hazard zones:

<i>Point Assignment</i>	<i>Criteria</i>
-4	An application which proposes development within a "V" zone on the FEMA flood insurance rate map.

- (5) *Perseverance points.* The following points are intended to reward an application based upon the number of years spent in the nonresidential ROGO system without receiving an allocation award.

<i>Point Assignment</i>	<i>Criteria</i>
+1	A point shall be awarded on the anniversary of the controlling date for each year that the application remains in the NROGO system, up to four years.
+2	Points shall be awarded on the anniversary of the controlling date for each year over four that the application remains in the NROGO system.

- (6) *Highway access.* The following points are intended to encourage connections between commercial uses and reduction of the need for trips and access onto U.S. Highway 1:

<i>Point Assignment</i>	<i>Criteria</i>
+3	The project eliminates an existing driveway or accessway to U.S. Highway 1.
+2	The projects does not provide for a new driveway or accessway to U.S. Highway 1.

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(7) *Landscaping and water conservation.* The following points are intended to encourage the planting of native vegetation and promote water conservation

<i>Point Assignment</i>	<i>Criteria</i>
+3	The project provides a total of 200 percent of the number of native landscape plants on its property than the number of native landscape plants required by this chapter within landscaped bufferyards and parking areas.
+1	25 percent of the native plants provided to achieve the three point award above or provided to meet the landscaped bufferyard and parking area requirements of this chapter are listed as threatened or endangered plants native to the Florida Keys.
+2	Project landscaping is designed for water conservation such as use of 100 percent native plants for vegetation, collection and direction of rainfall to landscaped areas, or application of reused wastewater or treated seawater for watering landscaped plants.
<i>Additional requirements:</i>	
Prior to the issuance of a certificate of occupancy for the building permit authorized by an allocation award, the applicant shall:	
(a) Post a two-year performance bond in accordance with this chapter to ensure maintenance of the native plants; and,	
(b) Sign an affidavit acknowledging that he is subject to code enforcement action should the native plants not be maintained.	

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(8) *Central wastewater treatment system availability.* The following points shall be assigned to encourage development in areas served by central wastewater treatment systems

<i>Point Assignment</i>	<i>Criteria</i>
+4	An application for which development is required to be connected to a central wastewater treatment system that meets BAT/AWT standards established by the state legislature.

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(9) *Employee housing.* The following points, up to a maximum of four, shall be assigned to allocation applications that make provisions for employee housing units:

<i>Point Assignment</i>	<i>Criteria</i>
+2 per unit	Proposes an employee housing unit which is located on the parcel with the nonresidential floor space requested in the allocation application. Up to a maximum of four points may be awarded.
<i>Additional requirements:</i>	
1. The employee housing unit shall be required to meet the applicable provisions of section 130-161.	
2. The proposed employee housing unit shall be included in the development approval for the nonresidential development proposed in the allocation application.	

3. A certificate of occupancy shall be granted for the nonresidential development authorized by the allocation award, but shall not be issued prior to the certificate of occupancy for the employee housing units.

(10) *Payment to land acquisition fund.* Up to two points shall be awarded for a monetary payment to the county's land acquisition fund for the purchase by the county of lands for conservation and retirement of development rights. Points for payment to this fund shall be assigned as follows:

<i>Point Assignment</i>	<i>Criteria</i>
+ 1 to + 2	Proposes payment to the county's land acquisition fund in an amount equal to the monetary value of a ROGO dedication point times the number of points to be purchased, up to a maximum of two points.
<i>Additional requirements:</i>	
	1. The monetary value of each point shall be established annually by resolution of the board of county commissioners.
	2. The monetary value of each point shall be based upon the average market value of privately-owned, buildable, vacant, IS/URM, platted lots in tier I, divided by four.
	3. Payment to the county's land acquisition fund shall be prior to the issuance of any building permit pursuant to the allocation award.

(b) *Rescoring of applications not receiving allocations.* All applications in the NROGO system on the effective date of the ordinance from which this article is derived that do not receive an allocation award in quarter 4, ROGO year 14, ending July 13, 2006, shall be rescored in quarter 1, ROGO year 15, pursuant to the provisions of subsection (a) of this section, as modified by the vesting provisions of subsection (c) of this section.

(c) *Retroactive vesting provisions.* Notwithstanding the provisions of subsection (a) of this section, upon the effective date of the ordinance from which this article is derived, the following vesting provision shall apply to the scoring of applications in the ROGO system prior to the effective date of the ordinance from which this article is derived:

- (1) All applicants in the NROGO system upon the effective date of the ordinance from which this article is derived shall be notified by regular mail within 30 days from the effective date of the ordinance from which this article is derived by the county planning and environmental resources department of the new NROGO scoring system.
- (2) In such notification, applicants shall be informed that they have 30 days from the date of the notification, if they so ~~choose~~ choose, to submit a revision to their NROGO application to receive positive points through aggregation, land dedication, or payment of fees to the land acquisition fund.
- (3) Within this one-time, 30-day time period, applicants shall be able to revise their applications without payment of fees or a change in their controlling date, upon

1 condition that their approved ~~building permit application~~ NROGO Site Plan is not
2 revised to involve any further clearing of upland native habitat.

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6 **Sec. 138-56. NROGO site plan approval process.**

7
8 (a) NROGO Site Plan application. Any application for a NROGO allocation within
9 unincorporated Monroe County subject to this chapter shall require site plan approval
10 prior to NROGO application submittal in accordance with this section.

11
12 (b) NROGO Site Plan application requirements. An application shall be submitted to the
13 planning director in a form provided by the planning and environmental resources
14 department.

15
16 (1) The application shall be received by the planning department at least 30 days prior to
17 the end of an allocation period.

18 (2) The application shall be accompanied by the required application fee, which shall be
19 established by resolution of the board of county commissioners.

20 (3) The application shall include a) the name(s) and address(s) of the property owner(s)
21 of record, b) the property record card(s) from the Monroe County Property Appraiser,
22 c) a location map, d) a written legal description of the property proposed for
23 development, e) a statement and confirmation that no new structures shall exceed or
24 otherwise violate the height and floodplain management limitations of this chapter, f)
25 a boundary survey of the property proposed for development, prepared by a surveyor
26 registered in the State of Florida, showing the boundaries of the site, elevations,
27 bodies of water or wetlands on the site and adjacent to the site, existing structures
28 including all paved areas, existing easements, total acreage and total acreage by
29 habitat and g) the site plan.

30 (4) If a conditional use permit is required in accordance with this chapter for the
31 development applied for, the conditional use permit shall be obtained and effective
32 prior to submittal of any NROGO Site Plan application. A copy of the recorded
33 development order shall be submitted with the NROGO Site Plan application.

34 (5) The site plan shall be prepared and sealed by a professional architect, engineer, or any
35 other professional licensed in the State of Florida to prepare site plan. The site plan
36 shall be drawn to a scale of one inch equals twenty feet. At a minimum, the site plan
37 shall depict the following features and information:

38 a. Date, north point and graphic scale;

39 b. Boundary lines of site, including all property lines and mean high-water lines in
40 accordance with Florida Statutes;

41 c. All attributes from the boundary survey, excluding only existing structures to be
42 removed as part of a redevelopment;

43 c. Future Land Use Map (FLUM) designation(s) of the site;

44 d. Land use district designation(s) of site;

45 e. Tier designation(s) of the site;

46 f. Flood zones pursuant to the Flood Insurance Rate Map;

- 1 g. Setback lines as required by this chapter;
2 h. Locations and dimensions of all existing and proposed structures, including all
3 paved areas;
4 i. Size and type of buffer yards and parking lot landscaping areas, including the
5 species and number of plants;
6 j. Extent and area of wetlands, open space preservation areas and conservation
7 easements;
8 k. Delineation of habitat types to demonstrate buildable area on the site, including
9 any heritage trees identified and any potential species that may use the site
10 (certified by an approved biologist and based on the most current professionally-
11 recognized mapping by the U.S. Fish and Wildlife Service;
12 l. Drainage plan including existing and proposed topography, all drainage
13 structures, retention areas, drainage swales and existing and proposed permeable
14 and impermeable areas;
15 m. Location of existing and proposed fire hydrants or fire wells;
16 n. The location of existing public utilities, including location of the closest available
17 water supply system or collection lines and the closest available wastewater
18 collection system or collection lines (with wastewater system provider) or on-site
19 system proposed to meet required County and State of Florida wastewater
20 treatment standards; and
21 n. A table providing the total land area of the site, the total buildable area of the site,
22 the type and square footage of all nonresidential land uses, the type and number of
23 all residential dwelling units, setbacks required and provided, the total amount of
24 off-street parking required and provided, the amounts of impervious and pervious
25 areas, and calculations for land use intensity, open space ratio, and off-street
26 parking.
27 As reasonably required, if deemed necessary to complete a full review of the
28 application, the planning director may request additional information or coordination
29 letters from other agencies.

30
31 (c) NROGO Site Plan application required review:

- 32
33 (1) The planning director, in accordance with the procedures, standards and limitations of
34 this article and subject to such rights of appeal as are provided, has the authority to
35 approve NROGO Site Plan applications.
36 (2) The NROGO Site Plan application shall be initially reviewed by planning and
37 environmental resources department for compliance with this chapter, the
38 comprehensive plan, any applicable Livable CommuniKeys master plan and any
39 other plan that would affect the proposed land use and intensity.
40 (3) Once determined complete and in compliance by the planning and environmental
41 resources department, the planning director, or his or her designee, shall route the
42 application to the following departments for review: the building department, the
43 office of the fire marshal, the engineering and project management department. Each
44 department that reviews the application shall respond with written comments and
45 recommendations to the planning director, or his or her designee, who shall maintain
46 a file on the application.

- 1 (4) Upon receiving written comments and recommendations of approval by all of the
 2 reviewing departments, the planning director shall approve the NROGO Site Plan
 3 application. At that time, the planning and environmental resources department shall
 4 notify the applicant in writing and the applicant may then submit the additional
 5 application for a Nonresidential ROGO allocation and enter the NROGO permit
 6 allocation system.
- 7 (5) In the event that the NROGO Site Plan application is found deficient and/or non-
 8 compliant to a required regulation or policy, the planning director shall notify the
 9 applicant by certified mail of such deficiency or additionally needed information.
 10 The applicant shall have an opportunity to remedy any deficiency by filing a revision
 11 to the application within 60 days of the date of the notification by the County of the
 12 deficiency. If the applicant does not submit a revision to the application with 60
 13 days, the planning director shall deny the NROGO Site Plan application.
- 14 (6) The applicant, an adjacent property owner, or any aggrieved or adversely affected
 15 person, as defined by F.S. § 163.3215(2), may appeal the decision of the planning
 16 director. Such an appeal shall be conducted by the planning commission in
 17 accordance with the provisions of section 102-185(e).

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21 **Sec. ~~138-57~~ 138-56. Employee housing fair share impact fee.**

- 22
23 (a) *Purpose.* All new nonresidential floor area, including commercial/business, institutional,
 24 and industrial development, creates a direct or indirect requirement for employee
 25 housing. The availability and stability of employee housing stock is essential for the
 26 economic health of the county. Therefore, all applicants for new or transferred
 27 nonresidential floor area shall be assessed a fee to be used by the county to address
 28 employee housing issues.
- 29
30 (b) *Type of development affected.* The following types of development are affected by the
 31 impact fee:
 32 (1) All new nonresidential floor area under section 138-49(a); and
 33 (2) The following development activities exempted under section 138-50 are subject to
 34 the employee housing fair share impact fee:
 35 a. Nonresidential development in areas exempted from residential ROGO, per
 36 section 138-50(2);
 37 b. Development activity for certain not-for-profit organizations, per section 138-
 38 50(4);
 39 c. Vested rights, per section 138-50(5);
 40 d. De minimis expansion of nonresidential floor area, per section 138-50(6);
 41 e. Industrial uses, per section 138-50(7); and
 42 f. Transfer and redevelopment off site of lawfully established nonresidential floor
 43 area which has not operated commercially for three years or more, per section
 44 138-50(10).
 45

(c) *Establishment of fee schedule.* An applicant for any new nonresidential floor area identified in subsection (b) of this section shall pay, prior to the issuance of a building permit, a fair share employee housing fee as established by the following schedule:

Structures for nonresidential uses of one to 1,999 square feet	\$1.00 per square foot
Structures for nonresidential uses of 2,000 to 2,999 square feet*	\$2.00 per square foot
Structures for nonresidential uses of 3,000 square feet or greater*	\$3.00 per square foot
*The fee is calculated on the total new or transferred nonresidential floor area subject to subsection (a)(2)f. of this section.	

(d) *Proceeds.* Proceeds from the impact fees collected shall be deposited in the employee housing fair share impact fee account and used exclusively to offset the cost of required permitting and connection fees related to the development of new employee housing, in accordance with a schedule and procedures recommended by the planning commission and approved by the board of county commissioners.

* * * * *

~~**Sec. 110-142.—Compliance requirements for building permit applications requiring a ROGO or NROGO allocation award or submitted under privatized plan review.**~~

~~Prior to submittal of an application for a building permit requiring a ROGO or NROGO allocation award under this chapter or submitted under the provisions of F.S. ch. 553 or privatized plan review, the building permit application shall be first submitted to the planning director for compliance review with the requirements of this chapter, the comprehensive plan, and chapter 13. The planning director shall determine within 15 working days if the building permit application is in compliance and can be processed by the building department or needs to be revised before it can be accepted and processed. If an evaluation of an HEI and site plan visit is required, the number of working days to complete the review may be more than 15 working days. The compliance determination of the planning director shall be in writing.~~

* * * * *

~~**Sec. 110-143.—Deadlines for submission of building permit applications to be entered into the residential and nonresidential permit allocation systems.**~~

~~No approved building permit application requiring a ROGO or NROGO allocation award, including applications submitted under privatized plan review as provided for by F.S. ch. 553 shall be accepted for entry into the ROGO or NROGO systems under this chapter, unless the building permit application is submitted to the building department 30 days prior to the end of the allocation period appropriate for that application.~~

1 IV RECOMMENDATION

2
3 Staff has found that the proposed text amendment would be consistent with the provisions of
4 §102-158(d)(5)(b): 1. Changed projections (e.g., regarding public service needs) from those
5 on which the text or boundary was based; 2. Changed assumptions (e.g., regarding
6 demographic trends); 3. Data errors, including errors in mapping, vegetative types and
7 natural features described in volume I of the plan; 4. New issues; 5. Recognition of a need for
8 additional detail or comprehensiveness; or 6. Data updates. Specifically, staff has found that
9 the proposed text amendments are necessary due to new issues and a recognition of a need
10 for additional detail or comprehensiveness.

11
12 Staff recommends that the Board of County Commissioners amend the Monroe
13 County Code as stated in the text of this staff report.